IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 12TH SEPTEMBER 2007 / 21ST BHADRA 1929

WP(C).No. 27132 of 2007(E)

PETITIONER:

KUNJU MUHAMMED, S/O.MOHAMMADALI,
PUKKAT PANAYAPPALLY HOUSE, MUNDAMPALAM,
THRIKKAKARA, ERNAKULAM.

BY ADV. SRI.V.E.ABDUL GAFOOR
SRI.A.MOHAMMED SAVAD

RESPONDENTS:

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1. THRIKKAKARA GRAMA PANCHAYAT,
THRIKKAKARA P.O., ERNAKULAM,
REPRESENTED BY ITS SECRETARY.

2. RAPPAL,
VALAKETHALA HOUSE,
MANGAD ROAD, EDAPPALLY, KOCHI.

R1 BY ADV.MR.SHANAVAS KHAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE,J.

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W.P.(C) No.27132 of 2007

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Dated: 12th September, 2007

JUDGMENT

The petitioner who is conducting a tea-shop in his building having door No.VI/1055A within the area of the 1st respondent-Panchayat challenges Ext.P5 notice. Under Ext.P5 the petitioner is informed that the licence which had been issued by the Panchayat to the petitioner for conducting tea-shop in Building No.VI/1055A is suspended on the basis of the Ombudsman's order dated 16.8.2007 in O.P.No.935/05.

2. Adv.Mr.Shanavas Khan takes notice on behalf of the 1st respondent. Heard Mr.Mohammed Savad, counsel for the petitioner and Mr.Shanavas Khan, counsel for the 1st respondent-Panchayat.

3. My attention was drawn Mr.Mohammed Savad to Ext.P4 order. As rightly submitted by him, under Ext.P4 the direction of the Ombudsman to the Panchayat is only to suspend the permit granted by the Panchayat to the petitioner for constructing the building. The above direction, in my opinion, cannot have any effect over the business which is being conducted by the petitioner in a building construction of which was completed at least prior to 17.5.2006, i.e., more than 15 months prior to the passage of Ext.P4 order. Ext.P5 has

been passed by the Panchayat without notice to the petitioner. I quash Ext.P5 to the extent it suspends the trade licence granted to the petitioner in respect of the building having door No.VI/1055A. The petitioner can file objections to the proposal to cancel his licence treating Ext.P5 as a show-cause notice. If objections are filed by the petitioner to Ext.P5 within ten days from today, the Panchayat will hear the petitioner on the various grounds raised in the Writ Petition including the ground that Ext.P4 cannot have application in the present situation where construction is completed long prior to Ext.P4 and take a fresh decision. The Panchayat will issue notice to the person who filed complaint before the Ombudsman and hear him also before a decision is taken.

The Writ Petition is disposed of as above.

srd **PIUS C.KURIAKOSE, JUDGE**